

United States Court of Appeals For the First Circuit

No. 07-1629
DC No. 05-11818

UNITED STATES

Plaintiff - Appellee

v.

TERRENCE J. JOYCE

Defendant - Appellant

ORDER OF COURT

Entered: July 10, 2007
Pursuant to 1st Cir. R. 27.0(d)

Appellant's motion for leave to proceed in forma pauperis and supporting financial affidavits are transmitted to the district court for action in the first instance pursuant to Fed. R. App. P. 24(a)(1). Copies of the district court's ruling shall be forwarded to this court. The district court, if it denies the motion, is requested to state its reasons in writing. Fed. R. App. P. 24(a)(2). If the appellant is not granted in forma pauperis status by the district court, he may file a motion to proceed in forma pauperis in this court, provided that he do so in accordance with Fed. R. App. P. 24(a)(5).

CERTIFIED COPY

I HEREBY CERTIFY THIS DOCUMENT
IS A TRUE AND CORRECT COPY OF
THE ORIGINAL ON FILE IN MY OFFICE
AND IN MY LEGAL CUSTODY.

FIRST CIRCUIT COURT OF APPEALS

BOSTON, MA

By: George [Signature] Date: 7/10/07

By the Court:

Richard Cushing Donovan, Clerk

MARGARET CARTER

By: _____
Chief Deputy Clerk

[Certified Copy: Hon. Rya W. Zobel and Sarah A. Thornton, Clerk, of Court]
[cc: Terrence J. Joyce and Christopher R. Donato, Esq.]

2007 JUL -5 P 12:44

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US COURT OF APPEALS
FOR THE FIRST CIRCUIT

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UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

TERRENCE J. JOYCE

Defendant - Appellant

Case No. 07-1629
D.C. No. 05-11818

MOTION FOR LEAVE TO APPEAL IN FORMA PAUPERIS

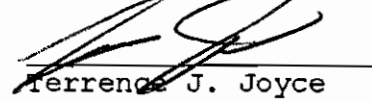
The Defendant, Terrence J. Joyce, respectfully requests that the District Court allow the defendant to proceed in Forma Pauperis on appeal to the First Circuit Court of Appeals as the defendant has no current financial means available to cover the filing costs. The defendant has attached a copy of an affidavit in support of this motion and sworn that he is entitled to redress. On appeal the defendant intends to argue:

1. THE DISTRICT COURT ERRED BY ALLOWING SUMMARY JUDGMENT FOR THE UNITED STATES BECAUSE THE UNITED STATES DID NOT PROVE THAT AN ENFORCEABLE CONTRACT EXISTS WITH THE DEFENDANT OR THAT THE DEFENDANT BREACHED SUCH A CONTRACT.

2. THE DISTRICT COURT ERRED WHEN IT DENIED THE DEFENDANT'S MOTION TO DISMISS PURSUANT TO RULE 41(b)(2) BECAUSE IT FAILED TO CONSIDER THE PREJUDICE AFFORDED TO THE DEFENDANT AS A RESULT OF THE UNREASONABLE DELAY IN PROSECUTION.

Respectfully Submitted,

Terrence J. Joyce



Terrence J. Joyce

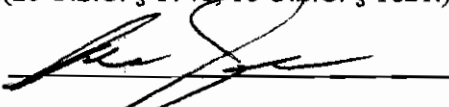
Dated: JULY 1, 2007

GK

**Affidavit to Accompany
Motion for Leave to Appeal in Forma Pauperis**

District Court No. 05-11818
Appeal No. 07-1629

v.

Affidavit in Support of Motion	Instructions
<p>I swear or affirm under penalty of perjury that, because of my poverty, I cannot prepay the docket fees of my appeal or post a bond for them. I believe I am entitled to redress. I swear or affirm under penalty of perjury under United States laws that my answers on this form are true and correct. (28 U.S.C. § 1746; 18 U.S.C. § 1621.)</p> <p>Signed: <u></u></p>	<p>Complete all questions in this application and then sign it. Do not leave any blanks: if the answer to a question is "0," "none," or "not applicable (N/A)," write in that response. If you need more space to answer a question or to explain your answer, attach separate sheet of paper identified with your name, your case's docket number, and the question number.</p> <p>Date: <u>7-1-07</u></p>

My issues on appeal are:

1. For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Employment (contract)	\$ <u>380</u>	\$ <u>0</u>	\$ <u>380</u>	\$ <u>0</u>
Self-employment	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Income from real property (such as rental income)	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Interest and dividends	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>

Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Gifts	\$ 0	\$ 0	\$ 0	\$ 0
Alimony	\$ 0	\$ 0	\$ 0	\$ 0
Child support	\$ 0	\$ 0	\$ 0	\$ 0
Retirement (such as social security, pensions, annuities, insurance)	\$ 0	\$ 0	\$ 0	\$ 0
Disability (such as social security, insurance payments)	\$ 0	\$ 0	\$ 0	\$ 0
Unemployment payments	\$ 0	\$ 0	\$ 0	\$ 0
Public-assistance (such as welfare)	\$ 0	\$ 0	\$ 0	\$ 0
Other (specify):	\$ 0	\$ 0	\$ 0	\$ 0
Total Monthly income:	\$ 380	\$ 0	\$ 380	\$ 0

2. List your employment history, most recent employer first. (Gross monthly pay is before taxes or other deductions)

Employer	Address	Dates of Employment	Gross monthly pay
DIRECTORY	160	2000-PRESENT	380
DISTRIBUTING CORP WOODS CT.			
ASSOCIATES	BRIDGETON, MO.		
	63044		

3. List your spouses's employment history, most recent employer first. (Gross monthly pay is before taxes or other deductions)

Employer	Address	Dates of Employment	Gross monthly pay
NONE			

4. How much cash do you and your spouse have? \$ 0

Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Financial Institution	Type of Account	Amount you have	Amount your spouse has
BANK OF AMERICA	CHECKING	\$ 500	\$ 0
		\$	\$
		\$	\$

If you are a prisoner, you must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.

5. List the assets, and their values, which you or your spouse owns. Do not list clothing and ordinary household furnishings.

Home	(Value)	Other real estate	(Value)	Motor Vehicle #1	(Value)
NONE				Make & year: TOYOTA (1997)	
				Model: RAV-4	
				Registration#:	
Motor Vehicle #2	(Value)	Other assets	(Value)	Other assets	(Value)
Make & year:				NONE	
Model:					
Registration#:					

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse money	Amount owed to you	Amount owed to your spouse
NONE		

7. State the persons who rely on you or your spouse for support.

Name	Relationship	Age
NONE		

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate.

	You	Spouse
Rent or home mortgage payment (include lot rented for mobile home)	\$ <u>900</u>	\$ <u>0</u>
Are any real estate taxes included? <input type="checkbox"/> Yes <input type="checkbox"/> No	(NOT CURRENTLY PAYING - LIVE @ HOME)	
Is property insurance included? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Utilities (electricity, heating fuel, water, sewer, and Telephone)	\$ <u>70</u>	\$ <u>0</u>
Home maintenance (repairs and upkeep)	\$ <u>50</u>	\$ <u>0</u>
Food	\$ <u>200</u>	\$ <u>0</u>
Clothing	\$ <u>100</u>	\$ <u>0</u>
Laundry and dry-cleaning	\$ <u>30</u>	\$ <u>0</u>
Medical and dental expenses	\$ <u>—</u>	\$ <u>0</u>
Transportation (not including motor vehicle payments)	\$ <u>150</u>	\$ <u>0</u>
Recreation, entertainment, newspapers, magazines, etc.	\$ <u>50</u>	\$ <u>0</u>
Insurance (not deducted from wages or included in Mortgage payments)	\$ <u>—</u>	\$ <u>0</u>
Homeowner's or renter's	\$ <u>—</u>	\$ <u>0</u>
Life	\$ <u>—</u>	\$ <u>0</u>
Health	\$ <u>—</u>	\$ <u>0</u>
Motor Vehicle	\$ <u>80</u>	\$ <u>0</u>
Other: _____	\$ <u>—</u>	\$ <u>0</u>
Taxes (not deducted from wages or included in Mortgage payments)(specify): _____	\$ <u>—</u>	\$ <u>0</u>
Installment payments	\$ <u>—</u>	\$ <u>0</u>
Motor Vehicle	\$ <u>—</u>	\$ <u>0</u>
Credit card (name): _____	\$ <u>100</u>	\$ <u>0</u>
Department store (name): _____	\$ <u>—</u>	\$ <u>0</u>
Other: _____	\$ <u>—</u>	\$ <u>0</u>

Alimony, maintenance, and support paid to others	\$ <u>0</u>	\$ <u>0</u>
Regular expenses for operations of business, profession, or farm (attach detailed statement)	\$ <u>—</u>	\$ <u>0</u>
Other (specify): <u>INTEREST/MLS</u>	\$ <u>112</u>	\$ <u>0</u>
Total monthly expenses:	\$ <u>942</u>	\$ <u>0</u>

942 NOT INCLUDING
RENT, UTILITIES, OR SCHOOL COSTS

9. Do you expect any major changes to your monthly income or expenses in your assets or liabilities during the next 12 months?

☐ Yes ☒ No

If yes, describe on an attached sheet.

possibly - looking for
EMPLOYMENT connection

10. Have you paid — or will you be paying — an attorney any money for services in connection with this case, including the completion of this form? ☐ Yes ☒ No

If yes, how much? \$ 0

If yes, state the attorney's name, address, and telephone number:

11. Have you paid — or will you be paying — anyone other than an attorney (such as a paralegal or a typist) any money for services in connection with this case, including the completion of this form?

☐ Yes ☒ No

If yes, how much? \$ _____

If yes, state the person's name, address, and telephone number:

12. Provide any other information that will help explain why you cannot pay the docket fees for your appeal.

UNEMPLOYED & WITHOUT PERMANENT
INCOME

13. State the address of your legal residence.

30 FORT MEADOW DR.

HUDSON, MA 01749

Your daytime phone number: () NONE - cell only

Your age: 40 Your years of schooling: 30+